

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1189

By: Webb

AS INTRODUCED

An Act relating to the Oklahoma Administrative Procedures Act; amending 75 O.S. 1991, Section 250.3, as last amended by Section 1, Chapter 182, O.S.L. 1994 (75 O.S. Supp. 1996, Section 250.3), which relates to definitions; modifying definition; excluding Department of Central Services; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 75 O.S. 1991, Section 250.3, as last amended by Section 1, Chapter 182, O.S.L. 1994 (75 O.S. Supp. 1996, Section 250.3), is amended to read as follows:

Section 250.3 As used in the Administrative Procedures Act:

1. "Agency" includes but is not limited to any constitutionally or statutorily created state board, bureau, commission, department, authority, public trust in which the state is a beneficiary, or interstate commission, except:

- a. the Legislature or any branch, committee or officer thereof, ~~and~~
- b. the courts~~, and~~
- c. the Department of Central Services;

2. "Rule" means any agency statement or group of related statements of general applicability and future effect that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of the agency. The term "rule" includes the amendment or revocation of an effective rule but does not include:

- a. the issuance, renewal, denial, suspension or revocation or other sanction of an individual specific license,
- b. the approval, disapproval or prescription of rates. For purposes of this subparagraph, the term "rates" shall not include fees or charges fixed by an agency for services provided by that agency including but not limited to fees charged for licensing, permitting, inspections or publications,
- c. statements and memoranda concerning only the internal management of an agency and not affecting private rights or procedures available to the public,
- d. declaratory rulings issued pursuant to Section 307 of this title,
- e. orders by an agency, or
- f. press releases or "agency news release", provided such releases are not for the purpose of interpreting, implementing or prescribing law or agency policy;

3. "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or similar form of permission required by law;

4. "Rulemaking" means the process employed by an agency for the formulation of a rule;

5. "Order" means all or part of a formal or official decision made by an agency including but not limited to final agency orders;

6. "Final agency order" means an order made pursuant to subsection D of Section 309 and Sections 311 and 312 of this title and which is subject to judicial review;

7. "Individual proceeding" means the formal process employed by an agency having jurisdiction by law to resolve issues of law or fact between parties and which results in the exercise of discretion of a judicial nature;

8. "Party" means a person or agency named and participating, or properly seeking and entitled by law to participate, in an individual proceeding;

9. "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency;

10. "Adopted" means that a proposed rule has been approved by the agency but has not been reviewed by the Legislature and the Governor;

11. "Final or finally adopted" means a rule other than an emergency rule, which has been approved by the Legislature, and by the Governor or approved by the Legislature pursuant to subsection F of Section 308 of this title and otherwise complies with the requirements of the Administrative Procedures Act but has not been published pursuant to Section 255 of this title;

12. "Promulgated rule" means a finally adopted rule which has been filed and published in accordance with the provisions of the Administrative Procedures Act, an emergency rule or preemptory rule which has been approved by the Governor;

13. "Office" means the Office of the Secretary of State;

14. "Secretary" means the Secretary of State;

15. "Hearing examiner" means a person meeting the qualifications specified by Article II of the Administrative Procedures Act and who has been duly appointed by an agency to hold hearings and, as required, render proposed orders;

16. "Administrative head" means an official or agency body responsible pursuant to law for issuing final agency orders; and

17. "Political subdivision" means a county, city, incorporated town or school district within this state.

SECTION 2. This act shall become effective November 1, 1997.

46-1-5410

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